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EXAMINER

LE, KHANH H

ART UNIT PAPER NUMBER

3622

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------------|--|
| Office Action Summary | Application No. 09/812,296 | Applicant(s) RITTMASER ET AL. | |
| | Examiner Khanh H. Le | Art Unit 3622 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/25/02 07/08/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the original application. Claims 1-18 are presented, claims 1 and 10 are independent.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Figures 7-12 are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Further, the drawings are objected to because elements in Figure 1 are not labeled. Element 18 in Figure 2 is not either. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 1-2, and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fano, US 6317718 B1, herein Fano.**

Fano discloses:

“An agent based system utilizes a Personal Digital Assistant (PDA)-based, Global Positioning System (GPS)-enabled information gathering agent to create a customized offer information summary based on the location of a user and one or more items of interest. One or more items of interest are obtained from a user. The physical location of the user is determined. A query based on the items of interest and the physical location of the user is then created. A network of information is queried utilizing this query. A customized offer is received from a retailer-based agent in response to the query. The customized offer information associated with the items of interest and their locations relative to the physical location of the user is displayed.” (Abstract).

Thus, as to claim 1, Fano discloses

A method for controlling the distribution of information from an information provider processor to a plurality of recipient processors on a communications network, based on the geographic locations of the recipient processors the method comprising:

associating a respective positioning system with each respective recipient processor (see at least abstract; col. 47 lines 20-40; Figs. 24-27 and associated text)

receiving location information from the positioning system associated with a given recipient processor, the location information corresponding to the general geographic location of the given recipient processor (see at least abstract; col. 47 lines 20-40; Fig. 27 and associated text);

determining, from the location information, whether the geographic location of the given recipient processor is within a predefined location or region (see at least abstract; col. 47 lines 20-40: the user is determined to be within the mall or not);

requiring additional information (implicitly at least the user device ID is requested by the system for customized suggestions, see at least col. 47 lines 40-66);

before providing the given recipient processor with access to first information (see at least col. 47 lines 61-65: customized suggestions) in the event that the given recipient processor is determined to be within the predefined location or region.

As to claim 2, Fano implicitly discloses wherein requiring additional information comprises communicating a query from the provider processor to the given recipient processor for the additional information (implicitly at least the user device ID is requested by the system for customized suggestions, see at least col. 47 lines 40-66).

As to claim 6, Fano discloses the additional information comprises current time information (see at least col. 38 lines 54-57).

As to claim 7, Fano discloses wherein the additional information comprises user identification information (implicitly at least the user device ID is requested by the system for customized suggestions, see at least col. 47 lines 40-66);

As to claim 8, Fano discloses wherein receiving location information comprises receiving location information over the network by the provider processor and determining comprises determining, by the provider processor, (see at least Figs. 24-25 and associated text: “intelligent agents coordinators” , item 2580 of the back end servers 2400 in Fig 25 determine location information of the user devices; see also col. 38 lines 54-57), whether the geographic location of the given recipient processor is within a predefined location or region (e.g., col. 47 lines 20-40: the user is determined to be within the mall or not).

5. Claim 1 is alternatively rejected and claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Cohen, US 6236330 B1, herein Cohen.

Cohen discloses

“ A mobile display system comprises one or more movable billboard displays, equipped with externally viewable display panels and a controller. The display is moved from location zone to location zone by a transporter which may comprise a person or a vehicle. The controller ascertains the display location and drives the display to generate a publicly viewable message selected for viewing within such location zone. The message is displayed pursuant to a schedule which includes date, time of day and display duration while the display is within the zone or until the display is located in another zone which is not included within the message schedule. A tiered

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system control network includes a plurality of fixed stations which transmit message content and scheduling data to the controller and which generate billing and other accounting records. An advertiser may communicate with the network for creating and changing message content and scheduling data.” (abstract).

Thus as to claim 1, Cohen discloses

A method for controlling the distribution of information from an information provider processor to a plurality of recipient processors on a communications network, based on the geographic locations of the recipient processors the method comprising:

associating a respective positioning system with each respective recipient processor (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line18; col. 3 line 43 to col. 5 line 67) ;

receiving location information from the positioning system associated with a given recipient processor, the location information corresponding to the general geographic location of the given recipient processor (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line18; col. 3 line 43 to col. 5 line 67);

determining, from the location information, whether the geographic location of the given recipient processor is within a predefined location or region (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line18; col. 3 line 43 to col. 5 line 67):

requiring additional information (implicitly at least the user device ID is requested by the system: see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line18; col. 3 line 43 to col. 5 line 67)

before providing the given recipient processor with access to first information (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line 18; col. 3 line 43 to col. 5 line 67; col. 5 line 62 to col. 6 line 4) in the event that the given recipient processor is determined to be within the

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predefined location or region.

As to claim 9, Cohen further discloses receiving location information comprises receiving location information by the given recipient processor and determining comprises determining, by the given recipient processor, whether the geographic location of the given recipient processor is within a predefined location or region (see at least Figs 2-4 and associated text ; col.5 line 46 to col. 6 line 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fano.**

As to claim 3, Fano does not specifically disclose the additional information required comprises user age information. However it does disclose querying the user profile (see at least Fig. 13, item 1340 and associated text) in order to provide customized information. Official Notice is taken that it is well-known that consumer profiles comprise age information. It would have been obvious to one skilled in the art at the time the invention was made to add user age

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information to Fano's teaching of user profiles, in order to further customize information, based on this additional profile factor, the age of the consumer.

As to claim 4, Fano does not specifically disclose the additional information comprises payment information. However it discloses transaction closing after user location is determined (see at least col. 52 lines 5-8). Official Notice is taken that it is well-known to require some kind of payment information, such as credit card information, in order to conclude a transaction. It would have been obvious to one skilled in the art at the time the invention was made to add requiring payment information to the Fano system, after determining the user location, to allow transaction closing as taught in Fano.

As to claim 5, Fano does not specifically disclose the additional information comprises a user indication that a waiver, license or disclaimer is accepted. However Official Notice is taken that it is well-known that certain products are sold with warnings or disclaimers. For example some online content to be accessed by the user by download to a user device would be preceded by disclaimers as to the appropriateness of the content. Usually user acceptance of the disclaimer is required before the download can proceed. It would have been obvious to one skilled in the art at the time the invention was made to add requiring such acceptance by the user to the Fano teaching of downloading content to the user device, before sending the first information, to ensure the user agrees with the appropriateness of the content before the download.

8. Claims 10-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen.

Cohen discloses

“ A mobile display system comprises one or more movable billboard displays, equipped with externally viewable display panels and a controller. The display is moved from location zone to location zone by a transporter which may comprise a person or a vehicle. The

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controller ascertains the display location and drives the display to generate a publicly viewable message selected for viewing within such location zone. The message is displayed pursuant to a schedule which includes date, time of day and display duration while the display is within the zone or until the display is located in another zone which is not included within the message schedule. A tiered system control network includes a plurality of fixed stations which transmit message content and scheduling data to the controller and which generate billing and other accounting records. An advertiser may communicate with the network for creating and changing message content and scheduling data.” (abstract).

Thus, as to claim 10, Cohen discloses

A method for controlling the distribution of displayable content to a plurality of recipient processors, including first and second recipient processors, on a communications network, (see at least abstract, Figs. 1-4 and associated text), the method comprising:

associating a respective positioning system with each respective recipient processor (see at least Figs. 4, item 18, and associated text)

; associating a large format, electronic display device with each respective recipient processor; locating each display device in a location viewable from an area in which a large number of people are expected to inhabit or pass (see at least Figs. 1-4 and associated text);

communicating first displayable content over the network to the first recipient processor and communicating second displayable content over the network to the second recipient processor (see at least Figs. 2, items 12, 52, and associated text);

Cohen does not specifically disclose the first displayable content corresponding to business establishments in the vicinity of the display device associated with the first recipient processor and the second displayable content corresponding to business establishments in the vicinity of the display device associated with the second recipient processor .

However it discloses, at col. 1 lines 28-38, that advertising is location sensitive, and local businesses want to advertise to local customers, thus it would have been obvious to one skilled in the art at the time the invention was made to send advertisements of the business establishments in the vicinity of the display device to that device, as claimed, so to fulfill those goals, as taught in Cohen, at col. 1 lines 28; lines 33-38.

Cohen further implicitly discloses wherein the first displayable content is different from the second displayable content (see at least Figs. 2, items 12, 52, and associated text).

As to claim 11, Cohen discloses wherein communicating first and second displayable content comprises: receiving location information from the positioning system associated with the first recipient processor, the location information corresponding to the general geographic location of the first recipient processor (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line 18; col. 3 line 43 to col. 5 line 67; col. 5 line 46 to col. 6 line 4);

receiving location information from the positioning system associated with the second recipient processor, the location information corresponding to the general geographic location of the second recipient processor; associating the geographic location of the first recipient processor with first content and the geographic location of the second processor with second content (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line 18; col. 3 line 43 to col. 5 line 67; col. 5 line 62 to col. 6 line 4);

and communicating the associated first and second content to the respective first and second recipient processors. (see at least Figs. 1-4 and associated text; col.1 line 60 to col. 2 line 18; col. 3 line 43 to col. 5 line 67; col. 5 line 62 to col. 6 line 4);

As to claim 12, Cohen discloses businesses desire advertising to be displayed based on a very narrowly defined location (col. 1 lines 34-36) and specific times to a localized target

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audience (see at least col. 1 lines 30-34) but does not disclose locating the display device associated with the first recipient processor adjacent a theater entrance and wherein the first displayable content includes information relating to productions or shows scheduled for a showing in the theater.

Official Notice is taken that advertisements displays, placed at close proximity to businesses and relaying information about those particular businesses, are well-known in order to the attract the customer to the businesses. Thus it would have been obvious to one skilled in the art at the time the invention was made to add to the Cohen system locating an ad display near a theater entrance and to display ads or other information about the productions or shows scheduled for a showing in the theater so to attract customers to that theater.

As to claim 13, Cohen discloses displays with split screens bearing multiple messages (col. 4 lines 2-7), but does not disclose wherein the first displayable content further includes advertisement information relating to a business establishment near the theater. However, Official Notice is taken that it is well-known that associated businesses are advertised together. For example, a mall directory display would list all the businesses figured in the mall and in close proximity of each other. The obvious goal for such directory display is to apprise the consumer of the other nearby businesses and to attract her therein. It would have been obvious to one skilled in the art at the time the invention was made to add advertisement information relating to a business establishment near the theater, in the case of a theater display, for the advantage discussed above.

As to claims 15-16, Cohen does not specifically disclose displays near roads, highways, or highway off ramps but Official Notice is taken that billboards displayed near roads, highways, or highway off ramps are well-known. Further such billboards depicting business establishments near such road or highway location, such as billboards for gas stations, restaurants and lodging are well-known. The well-known and obvious goals of such displays is to attract travelers to those businesses. Thus it would have been obvious to one skilled in the art at the time the

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invention was made to add to the Cohen system, billboards near roads, highways, or highway off ramps and to display ads about the business establishments near such road or highway location for the above advantage.

As to claims 17-18, Cohen discloses providing an advertiser interface for allowing advertisers to enter or modify content for inclusion in the first or second displayable content (abstract), wherein the advertiser interface comprises a web site (see at least col. 5 lines 5-12). Further Cohen discloses that those advertisers are associated with (or in the vicinity of) the area in which the display device associated with the first or second recipient processor is located (see at least col. 5 lines 35-38).

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Lohan et al US 5612741 A.

As to claim 14, as to locating each display device comprises locating the display device associated with the first recipient processor adjacent a theater entrance, see claim 12 above.

Further, Cohen does not disclose wherein the first displayable content includes a clip of a portion of a production or show scheduled for a showing in the theater.

However Lohan discloses a video billboard with video clip (see at least abstract, col. 3 lines 1-4). It would have been obvious to one skilled in the art at the time the invention was made to add Lohan's video clip to Fano's showing of a theater show, in the case of a theater display, as the complex video graphic of the clip (Lohan, col. 1 lines 38-40) would make the advertising much more enticing.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boyd, US 6484148 B1 disclosed targeted ads to consumers within vicinity of e-billboard systems.

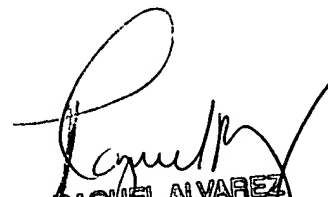
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 02, 2005


KHL


RAQUEL ALVAREZ
PRIMARY EXAMINER